

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Eite Recovery LLC,

Case No.: 2:23-cv-00507-JAD

Appellant

v.

**Order Granting Motion to Seal**

Get Fresh Sales Inc., et al.,

[ECF No. 23]

Appellees

Eite Recovery LLC, the appellant in this bankruptcy appeal, moves to seal three exhibits attached to its opening brief.<sup>1</sup> “The public has a ‘general right to inspect and copy public records and documents including judicial records and documents.’”<sup>2</sup> “Although the common law right of access is not absolute, ‘[courts] start with a strong presumption in favor of access to court records.’”<sup>3</sup> “A party seeking to seal judicial records can overcome the strong presumption of access by providing ‘sufficiently compelling reasons’ that override the public policies favoring disclosure.”<sup>4</sup> “When ruling on a motion to seal court records, the district court must balance the competing interests of the public and the party seeking to seal judicial records.”<sup>5</sup>

“To seal the records, the district court must articulate a factual basis for each compelling reason to seal[,] [which] must continue to exist to keep judicial records sealed.”<sup>6</sup> The Ninth Circuit has, however, “‘carved out an exception to the presumption of access’ to judicial records”

<sup>1</sup> ECF No. 23.

<sup>2</sup> *In re Midland Nat. Life Ins. Co. Annuity Sales Prac. Litig.*, 686 F.3d 1115, 1119 (9th Cir. 2012) (quoting *Nixon v. Warner Commcns., Inc.*, 435 U.S. 589, 597 (1978)).

<sup>3</sup> *Id.* (quoting *Foltz v. St. Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

<sup>4</sup> *Id.* (quoting *Foltz*, 331 F.3d at 1135).

<sup>5</sup> *Id.* (citing *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)).

<sup>6</sup> *Id.* (citing *Kamakana*, 447 F.3d at 1179; *Foltz*, 331 F.3d at 1136).

1 that is “‘expressly limited to’ judicial records ‘filed under seal when attached to a non-dispositive  
2 motion.’”<sup>7</sup> “Under the exception, ‘the usual presumption of the public’s right is rebutted[,]’” so  
3 “a particularized showing of ‘good cause’ under [FRCP] 26(c) is sufficient to preserve the  
4 secrecy of sealed discovery documents attached to non-dispositive motions.”<sup>8</sup>

5 I find that the higher, compelling-reasons standard applies in this context because the  
6 underlying brief is dispositive as it addresses the merits of this appeal. The exhibits contain  
7 confidential business and financial information that, if released, could potentially damage the  
8 parties. I thus conclude that there are compelling reasons to seal those exhibits in their entirety.

9 Accordingly, I **GRANT** Eite Recovery’s motion to seal [ECF No. 23]; **the Clerk of**  
10 **Court is directed to MAINTAIN THE SEAL on ECF Nos. 24–48.**

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U.S. District Judge Jennifer A. Dorsey  
June 7, 2023

<sup>7</sup> *Id.* (quoting *Foltz*, 331 F.3d at 1135).

<sup>8</sup> *Id.* (quoting *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002); *Foltz*, 331 F.3d at 1135, 1138).